



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2016-0454; FRL-9955-51-Region 3]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Maryland; New Regulations for Architectural and Industrial Maintenance Coatings**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Maryland. This revision pertains to a provision establishing new volatile organic compound (VOC) content limits and standards for architectural and industrial maintenance (AIM) coatings available for sale and use in Maryland. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R03-OAR-2016-0454 at <http://www.regulations.gov>, or via email to [pino.maria@epa.gov](mailto:pino.maria@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio,

video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Irene Shandruk, (215) 814-2166, or by e-mail at [shandruk.irene@epa.gov](mailto:shandruk.irene@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

In 2001, the Ozone Transport Commission (OTC), in collaboration with the Ozone Transport Region (OTR) states, developed several emission reduction measures, including a VOC model rule for AIM coatings (known as the Phase I AIM model rule), which addressed VOC reductions in the OTR. In 2004, consistent with the OTC Phase I AIM model rule, Maryland adopted COMAR 26.11.33 – *Architectural Coatings*, which established VOC content limits, recordkeeping and labeling requirements, and standard practices for use and application of coatings used in architectural and industrial maintenance.

The Phase I AIM model rule was replaced with an amended OTC model rule in 2011 (known as the Phase II AIM model rule). The Phase II AIM model rule was developed for states that needed additional VOC emission reductions in order to meet the ozone national ambient air

quality standards (NAAQS). Consistent with the Phase II AIM model rule, Maryland developed and adopted COMAR 26.11.39 – *Architectural and Industrial Maintenance Coatings*, which is an updated version of COMAR 26.11.33.

## II. Summary of SIP Revision

On June 27, 2016, the Maryland Department of the Environment (MDE) submitted to EPA a SIP revision containing new AIM regulations .01 through .08 under COMAR 26.11.39 – *Architectural and Industrial Maintenance Coatings*. The new regulations apply to any person who manufactures, blends, thins, supplies, sells, offers for sale, repackages for sale, or applies architectural and industrial maintenance coatings in Maryland. Maryland’s new AIM regulations establish more stringent VOC content limits (Table 1) and standards for AIM coating categories than in COMAR 26.11.33, as well as establish container labeling requirements, reporting requirements, and compliance procedures. The requirements of COMAR 26.11.39 will supersede those of COMAR 26.11.33. A more detailed explanation and analysis of COMAR 26.11.39 can be found in the Technical Support Document (TSD) for this rulemaking under Docket ID No. EPA-R03-OAR-2016-0454.<sup>1</sup>

**Table 1: VOC Content Limits Under COMAR 26.11.39 for Various AIM Coating Categories**

| <b>Architectural and Industrial Maintenance Coatings Category</b> | <b>Maryland’s New VOC Content Limits (grams/liter) Under COMAR 26.11.39</b> |
|---|---|
| Flat coatings   | 50  |
| Non-flat coatings   | 100   |
| Non-flat – high gloss coatings                                    | 150   |
| <b>Specialty Coatings:</b>  |   |

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<sup>1</sup> The TSD contains a comparison of VOC content limits in COMAR 26.11.39 and COMAR 26.11.33, demonstrating additional VOC emission reduction potential from COMAR 26.11.39 for this source category. The TSD also describes some AIM categories that were consolidated or added in the new COMAR 26.11.39 compared to COMAR 26.11.33, which EPA had previously approved for the Maryland SIP. However, none of these adjustments removed any VOC content limits from the Maryland regulation, which EPA had approved previously into the Maryland SIP.

|  |     |
|--|-----|
| Aluminum roof coatings                       | 450 |
| Basement specialty coatings                  | 400 |
| Bituminous roof coatings                     | 270 |
| Bituminous roof primers                      | 350 |
| Bond breakers                                | 350 |
| Calcimine recoater                           | 475 |
| Concrete curing compounds                    | 350 |
| Concrete/masonry sealers                     | 100 |
| Concrete surface retarders                   | 780 |
| Conjugated oil varnish                       | 450 |
| Conversion varnish                           | 725 |
| Driveway sealers                             | 50  |
| Dry fog coatings                             | 150 |
| Faux finishing coatings                      | 350 |
| Fire-resistive coatings                      | 350 |
| Floor coatings                               | 100 |
| Form-release coatings                        | 250 |
| Graphic arts coatings (Sign paints)          | 500 |
| High-temperature coatings                    | 420 |
| Impacted immersion coatings                  | 780 |
| Industrial maintenance coatings              | 250 |
| Low-solids coatings                          | 120 |
| Magnesite cement coatings                    | 450 |
| Mastic texture coatings                      | 100 |
| Metallic pigmented coatings                  | 500 |
| Multi-color coatings                         | 250 |
| Nuclear coatings                             | 450 |
| Pre-treatment wash primers                   | 420 |
| Primers, sealers, and undercoaters           | 100 |
| Reactive penetrating sealers                 | 350 |
| Reactive penetrating carbonate stone sealers | 500 |
| Recycled coatings                            | 250 |
| Roof coatings                                | 250 |
| Rust preventative coatings                   | 250 |
| <b>Shellacs:</b>                             |     |
| Clear  | 730 |
| Opaque                                       | 550 |
| Specialty primers, sealers, and undercoaters | 100 |
| Stains                                       | 250 |
| Stone consolidant                            | 450 |
| Swimming pool coatings                       | 340 |
| Thermoplastic rubber coatings and mastic     | 550 |
| Traffic marking coatings                     | 100 |
| Tub and tile refinish coatings               | 420 |
| Waterproofing membranes                      | 250 |

|                    |     |
|--------------------|-----|
| Wood coatings      | 275 |
| Wood preservatives | 350 |
| Zinc-rich primers  | 340 |

### **III. Proposed Action**

EPA's review of this material indicates that Maryland's new regulations for AIM coatings under COMAR 26.11.39 are based on the OTC's Phase II AIM model rule and establish more stringent VOC content limits and requirements for certain AIM coating categories compared to COMAR 26.11.33. Therefore, these new regulations should lead to additional VOC reductions from this category. Additionally, Maryland's new AIM coating regulations are more stringent than the federal standards found at 40 CFR 59, subpart D – *National Volatile Organic Compound Emission Standards for Architectural Coatings*, which in 1998 established nationwide VOC content limits and other requirements for manufacturers of architectural coatings. EPA expects more stringent VOC content limits will reduce emissions of VOCs, a precursor to ozone formation. Reduced VOC emissions and reduced ozone formation will assist Maryland with attaining and maintaining the ozone NAAQS. EPA proposes to add COMAR 26.11.39 to the Maryland SIP as a SIP strengthening measure. Pursuant to section 110 of the CAA, EPA is proposing to approve Maryland's new AIM coating provision, COMAR 26.11.39, which was submitted on June 27, 2016, as a revision to the Maryland SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

### **IV. Incorporation by Reference**

In this proposed rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is

proposing to incorporate by reference Maryland’s new regulations for AIM coatings under COMAR 26.11.39. EPA has made, and will continue to make, these materials generally available through <http://www.regulations.gov> and/or at the EPA Region III Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

## **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule pertaining to Maryland's new regulations for AIM coatings under COMAR 26.11.39, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 et seq.

Dated: November 10, 2016.

Shawn M. Garvin,  
Regional Administrator,  
Region III.

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